

C-4549

**AMENDMENT NO. THREE TO
PROFESSIONAL SERVICES AGREEMENT
WITH ANDERSONPENNA PARTNERS, INC., FOR CONSTRUCTION
MANAGEMENT SERVICES FOR
JAMBOREE ROAD BRIDGE WIDENING OVER STATE ROUTE 73**

THIS AMENDMENT NO. THREE TO AGREEMENT FOR PROFESSIONAL SERVICES ("Agreement") is made and entered into as of the 6th day of ~~October~~ ^{NOVEMBER}, 2012, by and between the CITY OF NEWPORT BEACH, a California municipal corporation and charter city ("City"), and ANDERSONPENNA PARTNERS, INC., a California corporation ("Consultant"), whose address is 20280 Acacia St., Ste. 100, Newport Beach, CA 92660, and is made with reference to the following:

RECITALS

- A. On June 8, 2010 ("Effective Date"), City and Consultant entered into a Professional Services Agreement ("Agreement") for construction management services for the Jamboree Road Bridge Widening Over State Route 73 Project ("Project").
- B. On June 23, 2011, City and Consultant entered Amendment No. One to the Agreement to increase the scope of work and increase the total compensation ("Amendment No. One").
- C. On June 12, 2012, City and Consultant entered Amendment No. Two to the Agreement to increase the scope of work and increase the total compensation ("Amendment No. Two").
- D. City desires to enter into this Amendment No. Three to extend the term of the Agreement, increase the scope of work, and increase the total compensation
- E. City and Consultant mutually desire to amend this Agreement, as provided below.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. TERM

Section 1 of the Agreement shall be amended in its entirety and replaced with the following: The term of the Agreement shall commence on the Effective Date, and shall terminate on December 31, 2013, unless terminated earlier as set forth herein.

2. SERVICES TO BE PERFORMED

Section 2 and Exhibit A of the Agreement, as previously amended, shall be supplemented to include the Contract Amendment #3 Request dated October 5, 2012, attached hereto as Exhibit A and incorporated herein by reference. Exhibit A of the Agreement and Exhibit A of Amendment No. Three shall collectively be known as "Exhibit A". City may elect to delete certain tasks of this Exhibit A at its sole discretion.

ANDERSONPENNA PARTNERS, INC.

3. COMPENSATION TO CONSULTANT

The introductory paragraph to Section 4 of the Agreement, as previously amended, shall be amended in its entirety and replaced with the following: City shall pay Consultant for the Services on a time and expense not-to-exceed basis in accordance with the provisions of this Section, Exhibit B of the Agreement and the Fee Detail attached hereto as Exhibit B and incorporated herein by reference. Consultant's compensation for all Work performed in accordance with this Agreement, including all reimbursable items and subconsultant fees, shall not exceed **Seven Hundred Thirty-Two Thousand Four Hundred Seventy-Six Dollars and No/100 (\$732,476.00)** ("Total Amended Compensation") without prior written authorization from City. No billing rate changes shall be made during the term of this Agreement without the prior written approval of City.

3.1 The Total Amended Compensation reflects Consultant's additional compensation for additional services to be performed in accordance with this Amendment No. Three in an amount not to exceed Forty-Five Thousand Dollars and No/100 (\$45,000.00).

4. INTEGRATED CONTRACT

Except as expressly modified herein, all other provisions, terms, and covenants set forth in the Agreement, as amended shall remain unchanged and shall be in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the dates written below.

[SIGNATURES ON NEXT PAGE]

Date: 10/11/12

By:

mb 10-12

Date: 11.6.12

By:

Date: 11/1/12

By:

Date: 10-20-12

By:

Date: 10/26/2017

By:

Angelique Lucero
Chief Financial Officer

ANDERSONPENNA PARTNERS, INC.

EXHIBIT A
SERVICES TO BE PERFORMED
CONTRACT AMENDMENT #3 REQUEST
DATED OCTOBER 5, 2012



October 5, 2012

Andy Tran
City of Newport Beach
3300 Newport Blvd
Newport Beach, CA 92663

RE: City of Newport Beach Construction Management Services for Jamboree Road Bridge
Widening over SR-73 – Contract Amendment # 3 Request

Dear Andy,

As we have discussed, this letter outlines the work performed by AndersonPenna Partners, Inc. (APP) that we believe is out of scope thereby requiring an Amendment to APP's contract to complete the project. The prior contract amendment approved in June 2012 was based on the following project schedule:

The fee estimate assumes the project will be substantially complete by mid June. Punchlist and closeout activities are anticipated in the estimated fee, with reduced CM staffing, through the end of July.

The punchlist inspection occurred on 8/22/12. Additional effort from June to the middle of August was required to bring the project to substantial completion. Areas that contributed to additional effort in June and July include:

- Longer time than estimated to remove false work.
- Class 1 concrete finishing issues
- Deck refinishing
- Extended work on the seismic retrofit of the columns
- Resolution of utilities at the abutments
- Overrun of required night work in June and July

Since the last contract amendment was approved by the City of Newport Beach, APP has been focused on resolving issues related to the seismic retrofit design, deck resurfacing construction, deck swale construction, slope paving, bridge concrete finish, abutment railing and abutment backfill.

The APP team is requesting an Amendment to our current contract in the amount of **\$45,000.00** for the work associated with being intimately involved in resolving these issues and bringing the project to substantial completion. The items still outstanding include: deck resurfacing inspection, punchlist and safety review inspection, and project closeout, which APP will complete. The proposed contract amendment fee proposal attached is based on the effort related to the extension of time to achieve Substantial Completion and Closeout that is now expected to be the end of September.

Andy Tran
August 27, 2012
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As you know, we have made every effort to cut costs and absorb as much of the unforeseen impacts as possible through reducing staff time and substantially reducing billing rates. APP very much appreciates your consideration of this request and understands the budget constraints involved; however we believe we have provided the City of Newport Beach with valuable service and have assisted with the management of an uncooperative contractor and design issues that were beyond our control.

We look forward to hearing from you soon regarding this request and will make time to meet with you to discuss any questions you may have or provide you with additional information.

Sincerely,
AndersonPenna Partners, Inc.

A handwritten signature in black ink, appearing to read 'David R. Anderson', with a stylized flourish at the end.

David R. Anderson, PE
Executive Vice President

**EXHIBIT B
FEE DETAIL**

Fee Detail

Task	PIC Dave Anderson	PM/QA-QC Dino D'Emilia	RE AB Fakhouri	Office Engineer Jaime Engler	Inspector Darren Hopper	Inspector Night Hopper/ Aguilera	Doc. Controls Taylor Lucero	Geotech/Soils & Materials Testing	Total
Proposal Hourly Rates	\$ 175.00	\$ 165.00	\$ 100.00	\$ 115.00	\$ 85.00	\$ 85.50	\$ 75.00		
Hourly Rates for Amendment	\$ 175.00	\$ 165.00	\$ 100.00	\$ 85.00	\$ 85.00	\$ 85.50	\$ 75.00		
Effort to Substantial Completion		-	64.00	162.00	60.00	139.00	5.00	\$ 6,235.35	\$ 43,764.85
Deck Resurfacing Inspection		-	-	-	8.00	-	-	\$ 1,282.15	\$ 1,962.15
Punchlist Final Verification		-	-	-	8.00	-	-	\$ -	\$ 680.00
Safety Review			12.00		4.00			\$ -	\$ 1,540.00
Project Closeout/Documentation			12.00	12.00				\$ -	\$ 2,220.00
Total Project Estimate (Hours)	-	-	88.00	174.00	80.00	139.00	5.00		\$ 486.00
Total Project Estimate (Fee)	\$ -	\$ -	\$ 8,800.00	\$ 14,790.00	\$ 6,800.00	\$ 11,884.50	\$ 375.00	\$ 7,517.50	\$ 50,167.00
						C&G Re-work Settlement south of Bristol South			\$ (5,167.00)
									\$ 45,000.00